IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4472 OF 2006

Prakash Madhukar Patil &
Ors. .. Applicants

Versus

State of Maharashtra .. Respondent

Mr.S.U.Marwadi for applicants
Mr.Y.M.Nakhwa, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 19th December 2006.

P.C.

. Heard Mr.Marwadi for applicant.

2. He states that the applicants apprehend arrest in connection with C.R.No.222 of 2006 registered with Alibag police station.

3. His grievance is that although C.R. alleges offences punishable under section 143, 147 to 149, 307, 323, 325, 341 and 345 I.P.C., considering the fact that the provisional injury certificate only shows superficial injuries and that too not on the vital part of the body, this is not a case where Section 307 could have been invoked. In any event, it cannot be invoked insofar as present applicants are concerned, because all that is alleged is that they were part of the group which allegedly assaulted the complainant. Assault with sharp edged weapons is alleged against Ravindra Gharat and Laxman Dharma Patil whereas the present applicants were carrying some wooden blocks/sticks. He submits that this is not a case where the applicants can be said to have gathered or gone at the site with

any intent as alleged. The entire case is false and is registered at the instance of complainant who wants to involve all persons including agriculturists. There is no specific role attributed to the applicants insofar as contractual dispute is concerned.

4. In my view, the applicants have been unable to substantiate their pleas that they have been falsely implicated because of political rivalry. As far as other allegations are concerned, prima facie, the investigations are going on. Injury certificate is provisional. It is not as if the applicants would have no opportunity to point out that they deserve to be enlarged on bail. That can always be done by filing regular bail application. In the same, it can always be contended that no case insofar as section 307 I.P.C. is made out as far as present applicants are concerned.

5. As far as anticipatory bail is concerned, considering the materials produced, I am not satisfied that ingredients of section 438 of Cr.P.C. are satisfied. Anticipatory bail application is, therefore, rejected. However, this order so also the order passed by the Additional Sessions Judge does not prevent the applicants from applying for regular bail and contending, during the course of arguments thereof, that no case is made out and applicability of section 307 of I.P.C. prima facie, is ruled out as far as they are concerned. Their role in the entire incident can also be highlighted. Needless to state that such application shall be decided, uninfluenced by any observations made by the Additional Sessions Judge or by this Court.

6. At the request of Mr.Marwadi and in the light of the undertaking given by him, ad-interim order passed by this Court to continue till 21st

December 2006. Applicants undertake to surrender by then before the I.O. Needless to state that if they do not do so, it would be open for the I.O. to initiate such steps as are permissible in law. All concerned to act on an authenticated copy of this order.

(S.C.Dharmadhikari, J)